

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 457 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RAMESHCHANDRA JAGANATH DUBEY

Versus

GUJARAT AYURVED VIKAS MANDAL

Appearance:

MR RN SHAH for Petitioner and .
Ms. S.D.Talati, ASSTT. Government Pleader for
respondent no. 3.
MR PM RAVAL for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 18/08/2000

ORAL JUDGEMENT

By means of this petition, the petitioner
has prayed for a direction to the respondents to give the
pay scale of Rs.650-1200 as per the recommendations of
Desai Pay Commission to the petitioner and give arrears

by taking into consideration the recommendations of the Desai Pay Commission and also to release the past increments and pay salary to the petitioner as paid to other similarly situated persons like the petitioner.

2. The respondent Gujarat Ayurved Vikas Mandal is a statutory body within the meaning of Article 12 of the Constitution of India and is established by the State Government, Panchayat and Health Department by its resolution no. ADR/1565/1571GH dated 29th April, 1965. The Managing Committee of the respondent no.1 Committee consists of:

1. The President appointed by the State of Gujarat.
2. Three members appointed by the State of Gujarat from Government.
3. Three Vaidyas appointed by the State of Gujarat.
4. Three persons appointed by the State of Gujarat, who have interest in establishment of Ayurved.
5. One member appointed by the State of Gujarat, who has interest in establishment of Ayurved, who would be the Member Secretary.
6. Additional Secretary appointed by the Managing Committee.

3. The petitioner is a decree holder BSAM and is working with the respondent no.1 as Doctor (Vaidya) under subordination of respondent no. 1 at the dispensary at Navapura, Surat. He joined the service in the year 1977-78 in the grade of Rs. 425-700. It is asserted by the petitioner that the petitioner is a Vice President of Gujarat Ayurved Vikas Mandal Karmachari Union. The other employees who are similarly situated like the petitioner are being given the benefit of Desai Pay Commission and they are getting the grade recommended by the Desai Pay Commission, the grade of RS.650-1200 as other similarly situated persons like the petitioner are getting the same benefit and have been given arrears from 1975-76 as per the difference the recommended grade of Desai Pay Commission and existing pay scales at the relevant time and as the petitioner was not given the said benefit and the same grade as recommended by the Desai Pay Commission of Rs.650-1200. The petitioner therefore, made an application dated 31st December, 1984 to the respondent no.1 for the benefits as per the Desai Pay Commission and also for release of the increment. The respondent no.1 informed the petitioner vide its letter dated 7/1/85 that the application of the petitioner was considered by the Managing Committee and has been rejected, but no reasons have been assigned in the order. The petitioner again made an application

dated 10th October, 1985 stating therein that the Mandal has accepted the recommendations of the Desai Pay Commission and has also given the arrears as per Desai Pay Commission and given increments to other doctors (Vaidyas) as per the recommendations of Desai Pay Commission. The petitioner was informed by the respondents vide letter dated 17.10.85 that as the condition of the Mandal was not good and sound, nothing could be done. Thereafter, the petitioner again moved applications dated 10.1.86, 4.2.86, 7.3.86 and 21.5.86 repeating the same prayer and making allegations as he has already made, but there was no response. The respondent no.1 informed the petitioner vide letter dated 31.5.1986 that the matter of the petitioner was placed before the Managing Committee and that was considered and rejected on administrative grounds. Thereafter, the petitioner again made applications dated 6.7.86 and 1.7.86 stating with documentary evidence that Smt. Dwarkaben Gyanbhaskar Pandya was appointed by resolution dated 4.3.77 in the grade of Rs.650-1200. That one M. Mutukrishnan was also appointed on 4.5.77 in the pay scale of Rs.650-1200. One A.S.Gupta who was also similarly situated like the petitioner has been given the pay scale of Rs.650-1200 though A.S.Gupta was a diploma holder in Ayurved whereas the petitioner is a degree holder and better qualified. One Dr. Nimbarkar has also been given the pay scale of Rs.650-1200 with increments and arrears as per the recommendations of the Desai Pay Commission since 1975-76. In spite of the application of the petitioner, the benefits of the Desai Pay Commission have not been given to the petitioner. It is also asserted that in the meeting of the State Committee held on 20.5.1986, the President directed the petitioner to wait for four months. Thereafter, the petitioner was told on 30th July, 1986 to wait for two months and the petitioner was informed that his case will be considered within two months. Even after one year again on 9.6.87, the petitioner was asked to wait for two months by the President of the Mandal. The petitioner therefore, sent a legal notice through his advocate on 23rd June, 1987 with a request to give pay scale of Rs.650-1200 and pay arrears of salary till the date and give increments and pay salary on that basis. The notice of the petitioner was replied by the respondent no.1 and it was stated that the Mandal has not accepted the recommendations of Desai Pay Commission and the application of the petitioner is baseless and the petitioner is not entitled to get any benefit.

4. The learned counsel for the petitioner submitted that the recommendations of the Desai Pay

Commission have been accepted by the respondent no.1 in the meeting held on 20th July, 1977 as it would appear from the resolution dated 23rd July, 1977 which has been annexed as Annexure "I". The learned counsel for the petitioner has pressed this petition on two grounds, firstly that the Desai Pay Commission report has been accepted by the respondent no.1 Mandal in the department and secondly that other similarly situated persons like petitioner have been given the benefit of the recommendations of Desai Pay Commission. Hence, the petitioner is also entitled for the benefits of the recommendations of the Desai Pay Commission.

5. Heard the learned Assistant Government Pleader Ms. S.D.Talati. In the present case, no counter affidavit has been filed by the State. No counter affidavit has been filed on behalf of respondent nos. 1 and 2. Hence, it would be difficult to decide the matter in dispute directing the State Government to give benefits of the recommendations of Desai Pay Commission to the petitioner. Therefore, in the facts and circumstances of the case, I think it proper that this petition itself may be treated as representation of the petitioner. The respondent nos. 1 and 2 are directed to decide the representation of the petitioner within a period of two months from the date of receipt of writ of this court keeping in mind the fact whether the petitioner is entitled for the benefit of the Desai Pay Commission recommendations and if the recommendations of the Desai Pay Commission have been accepted by the respondents, then the petitioner is also entitled for the same benefits like other similarly situated others like petitioner who have already been given the benefits of the recommendations of Desai Pay Commission. With these observations, this petition stands disposed of finally. Rule is discharged with no order as to costs. Direct service is permitted.

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